

FOR THE DISTRICT OF DELAWARE

MICHAEL R. SHIELDS,

Plaintiff,

v.

MICHAEL ASTRUE,
Commissioner of Social Security,

Defendant.

:
:
:
:
:
:
:
:
:
:
:
:

Civil Action No. 10-1048-RGA

MEMORANDUM ORDER

Having reviewed plaintiff Michael R. Shields' response to the Court's order to show cause, IT IS ORDERED that the Plaintiff has until **February 6, 2012**, to submit a brief containing an argument as to why summary judgment should be granted in his favor. Failure to submit a brief will be considered to constitute a failure to prosecute, and will result in an order of dismissal for failure to prosecute. If a brief is submitted, the only arguments that the Court will consider are arguments that the Plaintiff actually makes. The Court will not consider arguments not made in the brief. If the Plaintiff files a brief, Defendant shall serve and file a Cross-Motion for Summary Judgment and a supporting brief within thirty (30) days of service of the Plaintiff's brief.

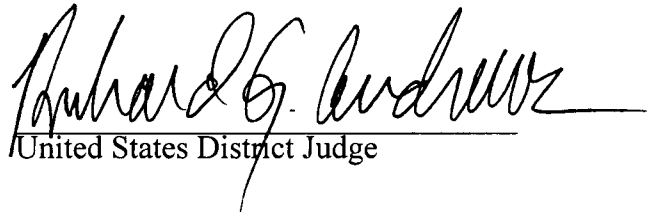
On July 25, 2011, the Court set a briefing schedule by which Plaintiff was to file a summary judgment motion and briefing by September 8, 2011. (D.I. 12). Plaintiff did not do so. On October 5, 2011, the Court ordered Plaintiff to show cause for his failure to comply with the Court's July 25 scheduling order, and for his apparent failure to prosecute. (D.I. 13). Plaintiff's

subsequent October 14 filing, consisting of one paragraph of about 58 words, generally alleges that Plaintiff's health is "getting worse" and relates medical issues that are consistent with that summary description. (D.I. 14). The Court will interpret that submission as an explanation for why the Plaintiff had not to date submitted a brief. As of today's date, nearly three months later, there has been no further communication from Plaintiff, and, in particular, no brief.

If D.I. 14 were interpreted as a summary judgment brief (as Plaintiff entitled his filing), it makes no argument, and the Court would grant summary judgment if the Defendant filed a motion requesting such action.

Out of an excess of caution, the Court will give the Plaintiff one last chance.

Entered this 9th day of January, 2012.


United States District Judge